

**IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.8018 OF 2004

Amit Sharad Sawant .. Petitioner.
Vs.
Mahesh Dnyaneshwar Khebde .. Respondents.

Mr.S.S.Patwardhan for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 6TH OCTOBER, 2004

P.C.:

. Mr.Patwardhan, learned counsel for the petitioner.

2. This petition is directed against the order dated 11.6.2004 passed below Exhibit-14 which reads thus:

After receipt of summons defendant appeared and sought time for written statement at Exh on 30.10.2003, still within 90 days defendant had not filed written statement from date of service of suit summons. His advocate also did not appear. As such application is rejected and order passed below Exh.1".

3. I perused the application filed by the petitioner seeking extension of time to file written statement. It appears that the learned Judge while rejecting application has not taken into consideration the observations made by this court in **Shailaja A.Sawant Vs. Sayajirao Ganpatrao Patil 2004(2) Mh.L.J.419** which has been confirmed by the Division Bench of this court in **Chintaman Sukhdeo Kaklij and Others Vs. Shivaji Bhausahab Gadhe and Others in Writ Petition No.2847 of 2004** vide its judgments dated 12/13 August, 2004. In view thereof instead of examining the merits of this petition, in my opinion, the appropriate course would be to direct the learned Judge to consider the application Exhibit-14 afresh in the light of the observations made by this court in aforesaid judgments after giving an opportunity of being heard to the learned counsel appearing for the parties. The petitioner to communicate this order to the learned Judge within two weeks from today. The learned Judge shall consider Exhibit-14 afresh within four weeks therefrom. In the circumstances the order dated 11.6.2004 renders ineffective. The petition is disposed of.

(D.B.Bhosale, J.)